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OFFICE OF PETITIONS

In re Application of
Rawson
Application No. 10/698,354
Filed: October 31, 2003
Attorney Docket No. PC25373A
For: THERAPEUTIC PROLINE DERIVATIVES

DECISION GRANTING
PETITION

This is a decision on the petition filed January 28, 2004 entitled, "PETITION TO CORRECT FILING DATE AS "DATE-IN" UNDER 37 CFR 1.10(c)" The petition will be treated under 37 CFR 1.10(d), as a request to accord the above-identified application a filing date of October 30, 2003, rather than the presently accorded filing date of October 31, 2003.

Petitioner requests the earlier filing date on the basis that the application was deposited in Express Mail service on October 30, 2003, pursuant to the requirements of 37 CFR 1.10. The petition is accompanied by a copy of a United States Postal Service (USPS) sales receipt showing that Express Mail label no. EK651606192US was purchased on October 30, 2003. The same Express Mail label number is found on the original Transmittal Letter. In addition, the USPS Track and Confirm record for Express Mail label no. EK651606192US shows that the package was accepted by the USPS on October 30, 2003. The date-in on the Express Mail label in question is 10/31/03.

Paragraph (d) of 37 CFR 1.10 states that:

Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:

- (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
- (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
- (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

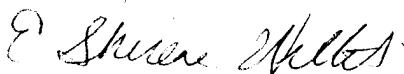
A grantable petition under 37 CFR 1.10(d) must include "a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day." In addition, the showing "must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the 'Express Mail Post Office to Addressee' service of the USPS."

The petition filed January 28, 2004, is accompanied by the corroborating evidence required by the rule. Accordingly, the petition is **GRANTED**. No petition fee has been or will be charged in connection with this matter.

The application is being returned to the Office of Initial Patent Examination for correction of the filing date to **October 30, 2003** and the mailing of a corrected filing receipt.

Thereafter, the application will be forwarded to Technology Center Art Unit 1614 for examination in due course.

Any inquiries related to this decision should be directed to the undersigned at (703) 308-6712.



E. Shirene Willis
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